

Lakewood cop killer's getaway driver to get new trial, court rules

The state Supreme Court ruled that prosecutors misstated the law to jurors when they convicted Darcus D. Allen. He was the driver of Maurice Clemmons, the man who shot and killed four police officers in Pierce County in 2009.

By [Mike Carter](#)

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In the stunned aftermath of the murders of four Lakewood police officers in 2009, Pierce County Prosecutor Mark Lindquist vowed that anybody who had anything to do with the killings would be brought to justice.

Police questioned the friends and family of cop-killer Maurice Clemmons, and arrested his sister, an aunt, a cousin, a half-brother and a former prison buddy.

Lindquist's office won several convictions, including a 420-year prison sentence for Darcus Dewayne Allen, the man who drove Clemmons to and from the coffee shop where the massacre took place.

On Thursday, the state Supreme Court unanimously threw out Allen's conviction and ordered a new trial, ruling prosecutors prejudiced the jury by misstating the law that describes the knowledge an accomplice must have to be found guilty.

Allen, 43, had been convicted of four counts of first-degree murder, the most serious charges filed against anyone involved in the Lakewood police killings. Lindquist said his office would seek a new trial date within 60 days.

Clemmons was shot and killed by a Seattle police officer after a 40-hour manhunt and never faced prosecution.

The court opinion is the latest setback to Lindquist's promise of justice for the slain officers and their families. In December, the high court [overturned gun-related convictions](#) against Clemmons' aunt, Letrecia Nelson, and a cousin, Eddie Lee Davis, and reversed exceptional sentences they received for their roles in helping Clemmons after the killings. Their convictions for rendering assistance to Clemmons were upheld.

In 2013, the justices upheld a decision to throw out a conviction against Clemmons' sister, LaTanya Clemmons, for helping Darcus Allen hide. Clemmons' half-brother, Ricky Hinton, was acquitted of felony rendering assistance charges in a 2010 trial.

Another woman, Quiana M. Williams, pleaded guilty to rendering assistance to Clemmons by helping him treat a gunshot wound and allowing him to wash his clothes after the killings.

Lindquist, in a statement Thursday, defended his prosecutors and acknowledged that the deputy who argued the Allen case to the jury, Stephen Penner, “should have phrased his argument more artfully so it was not open to misinterpretation.”

“But it was the evidence that convicted Allen, not the deputy prosecutor’s words,” Lindquist said. “I’m sorry the families and the community have to endure another trial.”

That provoked a sharp response from Seattle attorney Gregory Link, who handled Allen’s successful appeal.

“This was no inartful statement,” Link said. “It was not accidental and it was not inadvertent. It was by design and planned ahead of time.

“In their zeal to seek justice, they lost sight of what it means,” Link said Thursday.

When he was convicted, Allen said much the same thing, accusing prosecutors of using him as a “scapegoat” for the public anguish and outrage that followed the officers’ murders.

Allen maintained he was oblivious to Clemmons’ plans on Nov. 29, 2009, even though Clemmons was acting irrational and had threatened, at a Thanksgiving dinner that Allen attended, to kill police.

“In an attempt to escape your own ineptitude and responsibility, you, the Pierce County prosecutor and this injustice system, has created a convenient scapegoat in myself, Darcus Allen,” he said when he was sentenced.

The justices, in a [26-page opinion](#) authored by Mary Fairhurst, found prosecutors in Allen’s 2011 trial engaged in “prejudicial misconduct” that almost certainly influenced the jury.

The justices found that the prosecutor repeatedly misstated a key element of the law the jury would have to rely upon in order to determine if Allen was a knowing accomplice to the killings.

Penner repeatedly stated jurors could find that Allen “should have known” Clemmons was planning to kill police officers when he picked Clemmons up that day. The law states that the jury was required to find that Allen had actual knowledge of the planned killings before convicting.

The error was repeated at least five times during closing arguments and was also included in a PowerPoint presentation shown to jurors, according to court documents. Jurors even sent out a question during deliberations about the distinction.

“It is possible that the jury believed Allen did not know Clemmons would commit murder but nevertheless convicted him because he ‘should have known,’ which is the wrong standard,” Fairhurst wrote for the court.

The Court of Appeals, in an earlier decision in the case, had recognized the prosecutor’s misstatements, but concluded they were not prejudicial. The Supreme Court found otherwise.

“We hold that the prosecuting attorney committed prejudicial misconduct,” the justice wrote. “We reverse the court of appeals and remand for a new trial.”

The justices also addressed two other issues: how and when sentence-enhancing aggravated circumstances can be sought against Allen in any retrial, and a directive to the trial court about possible spectator demonstrations.

The justices determined that any exceptional sentence can be sought based only on Allen’s conduct, not the crimes committed by Clemmons.

Some spectators during the first trial wore T-shirts commemorating the slain officers, which raised defense concerns. The justices said the trial court must ensure that any spectator displays do not prejudice Allen.

Lakewood police Sgt. Mark Renninger and officers Tina Griswold, Ronnie Owens and Greg Richards were at the Forza coffee shop in nearby Parkland when Clemmons walked up to their table and opened fire with two handguns. Clemmons was wounded in a struggle with Richards before the officer succumbed to his wounds.

Allen said Clemmons directed him to a carwash in Parkland and told him to wait. Allen said he figured out something was wrong only after Clemmons returned, and told officers he abandoned Clemmons and the truck later that morning because he wanted no part of what had happened.

Police discounted Allen’s version of events and Lindquist said at the time of Allen’s arrest, “When you help a criminal, you become a criminal.”

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